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Subject:— Opinions under the Government Buildings Act 1899

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C O N T E N T S.

Legal Department File No. O. Govt. Bldgs. /45

Serial No.	R.I./O.No.	Subject	Pages.
		Opinions under the Government Buildings Act 1899	
1	O.No. 8587 17-11-1945	Section 3 Whether in view of the principle enunciated that the Crown is exempted from the obligations and restrictions proposed by a statue unless it is specifically brought within the scope of the statute ; the city of Bombay (Building works Restriction) Act, 1944 can be taken to apply to godowns built on land requisitioned under Defence of India Rules	1-2

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Section 3 of the Government Buildings Act, 1899, provides that nothing contained in any law or enactment for the time being in force to regulate the erection, re-erection, construction, alteration or maintenance of buildings within the limits of any municipality shall apply to any building used or required for the public service or for any public purpose which is the property, or in the occupation of the Crown or which is to be erected on land which is the property or in the occupation of the Crown. The proviso to this section lays down that where the erection, re-erection, construction or material structural alteration of any such building as aforesaid (not being a building connected with Imperial defence or a building the plan or construction of which ought in the opinion of the Government concerned, to be treated as confidential or secret) is contemplated, reasonable notice of the proposed work shall be given to the municipal authority before it is commenced.

2 In interpreting this section vis-a-vis the Bombay Town Planning Act, 1915, the Advocate General in his opinion No. 15 dated 22nd February 1928 observed as follows:-

" In opinion No. 105 of 1927, I stated that the Town Planning Act is binding on Government.

The question is whether the provisions of that Act regulating the erection, re-erection, construction, alteration , or maintenance of buildings within the limits of any Municipality apply to Government buildings. Though the Town Planning Act impliedly binds Government provisions of the Town Planning Act regulating the erection, re-erection, construction, alteration and maintenance of buildings do not apply to Government buildings, provided notice of the proposed work is given to the Municipal authority before it is commenced. See section 3 of the Government Buildings Act, IV of 1899.

The Government Buildings Act is intended exempt certain Government buildings from the

operation of Municipal buildings laws, i.e., buildings laws contained in any enactment for the time being in force. Under section 3 of the Government Buildings Act Government buildings are exempted, provided notice is given as required by the section to the Municipal authority. If no notice is given one of the conditions of section 3 would not befulfilled and the section would not apply".

3 This opinion explains the correct legal position which is that the provisions of the Bombay Town Planning Act, 1915, and the City of Bombay(building Works Restriction) Act, 1944, are applicable to the erection of Crown buildings unless reasonable notice is given under the proviso to section 3 of the Government Buildings Act, 1899. What is reasonable notice is a question of fact which has to be decided with reference to the facts of each case. In the present case it is doubtful if the grant of water connection for the building works on the application of the contractor can be held tantamount to a notice under the proviso to section 3 of the Government Buildings Act, 1899 or to acquiescence on the part of the Municipal authority.

Id./..... 15/11/45
Remembrancer of Legal Affairs,

U.O. to F.D.(3),No. 8587 dated the 17th November 1945.

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